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9 **LIVE NATION MERCHANDISE, INC.**

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LIVE NATION MERCHANDISE, INC.

Plaintiff,

v.

JOHN DOES 1-5, JANE DOES 1-4 AND
XYZ COMPANY,

Defendants.

Case No. CV 11-4816ABC(JEMx)

[PROPOSED] PRELIMINARY
INJUNCTION AND SEIZURE
ORDER

Hearing Date: June 16, 2011

Time: 10:00 a.m.

Courtroom: 680, Hon. Audrey
B. Collins

Plaintiff Live Nation Merchandise, Inc. ("Plaintiff") having moved for a Preliminary Injunction enjoining and restraining the defendants from manufacturing, selling or distributing merchandise bearing the federally registered trademarks, servicemarks, logos, likenesses or other indicia of the group known as **"MOTLEY CRUE"** (the "Group") (collectively the "Group's Marks") ordering the seizure and impounding of such articles; and service having been effected upon certain defendants at the and/or the Group's concerts which have previously occurred; and Plaintiff's application having come on for a hearing before the Honorable Audrey B. Collins on the 16th day of June, 2011, at the United States Courthouse in the Central District of California, and Plaintiff having appeared by its attorneys, and there having been no other appearances;

1 Now, on presentation and consideration of Plaintiff's application for a preliminary
2 injunction and order of seizure, the declaration in support thereof and all other pleadings
3 and prior proceedings heretofore had herein in this matter, the Court hereby finds:

4 1. By reason of the substantial and continuous use of the Group's Marks in
5 connection with the Group's work, said marks have acquired meanings identified with
6 the Group and with products and services associated with them;

7 2. The served defendants, and those in active concert or participation with
8 such defendants, have infringed upon Plaintiff's rights in the Group's Marks, as well
9 committed acts of unfair competition against Plaintiff herein by manufacturing,
10 distributing, offering for sale and selling merchandise bearing any or all of the Group's
11 Marks at or near the sites of the Group concerts, without having obtained a license or
12 any other authorization to do so, as alleged in the complaint;

13 3. The acts of the defendants, and those in active concert or participation with
14 them, constitute a violation of the United States Trademark Act in that they: a) involve
15 goods or services, b) are activities which affect interstate commerce, and c) infringe the
16 trademark and/or bear a false designation of the source or origin of such goods or are
17 likely to cause confusion, mistake or deception as to the affiliation, connection,
18 association, sponsorship or approval of Plaintiff, the Group with respect to such goods;

19 4. Defendants, and those in active concert or participation with them, will
20 continue to sell such unauthorized merchandise unless enjoined by the Court; and

21 5. Copies of this Court's Order to Show Cause On Motion For Preliminary
22 Injunction with A Temporary Restraining and Seizure Order, and the Complaint filed in
23 support of Plaintiff's application in this case have been served upon the defendants and
24 unauthorized, "bootleg" merchandise has been seized from the defendants;

25 **NOW, THEREFORE, IT IS HEREBY**

26 **ORDERED**, that the defendants, their agents, servants, employees, attorneys,
27 successors, and assigns, and all persons, firms, and corporations acting in active concert
28 or participation with said defendants, are enjoined and restrained from:

1 (A) Using any or all of the Group's Marks in connection with the sale, offering
2 for sale, distribution, and/or advertising of any clothing or other merchandise;

3 (B) Manufacturing, distributing, selling, and/or holding for sale any clothing or
4 other merchandise which carries or otherwise uses any or all of the Group's Marks; or

5 (c) Aiding, abetting, inducing, or encouraging another to perform any of the
6 acts enjoined herein.

7 **IT IS FURTHER ORDERED**, that the U.S. Marshal for this district or for any
8 district in which Plaintiff seeks to enforce this Order in the United States, the state
9 police, local police, local deputy sheriffs, off-duty officers of the same, Peter Weber and
10 any person acting under their supervision (collectively "Process Servers"), are hereby
11 similarly authorized to seize and impound any and all unauthorized merchandise bearing
12 any or all of the Group's Marks (i.e. the **MOTLEY CRUE** marks) or any colorable
13 imitations or variations thereof, or associated marks which defendants or their agents,
14 employees or representatives attempt to sell or are holding for sale in the vicinity of any
15 of the Group's concerts from six (6) hours before to six (6) hours after any performance
16 of the Group within a ten (10) mile vicinity of the halls, stadiums or arenas at which the
17 Group shall be performing or elsewhere where such merchandise is being sold, held for
18 sale or is otherwise found, including in any carton, bag, vehicle, or container in which
19 the merchandise is transported or stored. All clothing, jewelry, photographs, posters
20 and other merchandise bearing any or all of the Group's Marks, or any colorable
21 imitations or variations thereof, sold and held for sale in the vicinity of the arenas or
22 other venues at which the Group shall be performing, or elsewhere where such
23 merchandise is being sold, held for sale or otherwise found, shall be deemed to be
24 merchandise subject to the seizure provisions of this Order.

25 **IT IS FURTHER ORDERED**, that service of a copy of this Order, together with
26 the Summons and Complaint, be made upon defendants by the Process Servers at the
27 time the seizure provided herein is effected, and that such service shall be deemed good
28 and sufficient.

1 **IT IS FURTHER ORDERED**, that each and every defendant served with a copy
2 of this order promptly, courteously and peaceably identify himself or herself to the
3 aforementioned Process Server and that the Process Server or agents for Plaintiff be
4 allowed to photograph, videotape or otherwise identify the defendant.

5 **IT IS FURTHER ORDERED**, that the Process Server shall offer a receipt to
6 each person from whom goods are seized.

7 **IT IS FURTHER ORDERED**, that any Defendant who is hereafter served with
8 a copy of this Order who objects to the provisions herein may submit his or her
9 objections to this Court or otherwise move for relief from this Court within ten (10)
10 days of the date of seizure according to the Federal Rules of Civil Procedure, but no
11 such objection shall serve to suspend this Order or stay the terms hereof unless
12 otherwise ordered by this Court.

13 **IT IS FURTHER ORDERED**, that all unauthorized items heretofore or
14 hereafter seized in this action be delivered up to the Plaintiff or the persons designated
15 above, pending final disposition of this matter.

16 **IT IS FURTHER ORDERED**, that the bond heretofore deposited with the Clerk
17 of this Court to secure payment of costs incurred in enforcing the provisions of the
18 temporary restraining order and any damages sustained by any party who is found to
19 have been wrongfully enjoined thereby is hereby continued until final disposition of this
20 matter.

21 **IT IS SO ORDERED.**

22 Dated: June 16, 2011

23 At: 10:00 a.m.


THE HONORABLE AUDREY B. COLLINS
UNITED STATES DISTRICT COURT

24 Presented By:

25 _____
26 /s/
27 **Cara R. Burns (SBN: 137557)**
28 **Hicks, Mims, Kaplan & Burns**
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